

# State of Wisconsin\Government Accountability Board

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JUDGE DAVID G. DEININGER  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

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Delivered by email only

November 1, 2012

Dear Election Observer Organization:

Your organization has been identified as one which has encouraged and sponsored individuals to act as election observers at Wisconsin polling places during previous elections. The Government Accountability Board (G.A.B.) encourages citizens to observe the election process because such activity promotes fair and transparent elections, and assists in detecting issues which require attention at an early stage in the process. In recent elections, the G.A.B. has received an increasing number of reports describing aggressive or disruptive behavior by a minority of observers. We have also received reports regarding the apparent intentions of some observers for the election next week. This correspondence serves as a reminder of the code of conduct that applies to election observers, and seeks your assistance in ensuring that observers comply with Wisconsin Statutes governing their conduct.

In 2008, the G.A.B. initiated emergency administrative rules governing the conduct of election observers which have been credited with establishing consistent treatment of observers throughout the State and preserving order at the polls during recent elections. These emergency rules were revised and reinstated in 2010. The recreated Chapter GAB 4, Wis. Adm. Code, implemented the provisions of Sections 5.35(5), 7.37(2) and 7.41 of the Wisconsin Statutes and effectively balanced the rights and responsibilities of observers, election officials, and voters. While those emergency administrative rules have subsequently expired, the G.A.B. intends to promulgate identical provisions as permanent administrative rules in the future. In the meantime, the G.A.B. has directed local election officials to continue applying the terms of the emergency rules from 2010 as the G.A.B.'s interpretation of the relevant Wisconsin Statutes.

Attached to this correspondence is a copy of the observer regulations which the G.A.B. has advised clerks to continue to apply and enforce, which may also be located on our website at <http://gab.wi.gov/publications/rules/gab004>. Also attached is a brochure summarizing the observer rules which we encourage you to share with representatives of your organization who will serve as observers, and which may also be found at <http://gab.wi.gov/search/node/rules%20at%20a%20glance>.

Key provisions of the rules for election observers include the following:

1. Election observers must notify the chief inspector upon arriving at the polling place, and must sign in with their full name, address, and the name of the organization or candidate the observer represents, if any.

2. The chief inspector may reasonably limit the number of observers representing a particular organization or candidate if necessary to ensure the orderly conduct of the election and equal participation amongst the organizations represented.
3. Observers shall remain in the area designated as the observation area by the chief inspector. The observation area must be situated to enable observers to observe all public aspects of the voting process. When physically feasible, the observation area shall be from six to twelve feet from the table at which electors announce their name and address. Election inspectors shall repeat the voter's name and address if observers are unable to hear the voter.
4. All of the observers' questions and challenges shall be directed to the chief election inspector, except that an observer may ask other inspectors to repeat a voter's name and address if it cannot be heard by the observer. **Observers shall not have direct contact with electors in the polling area, unless requested by a voter to assist with casting a ballot.**
5. **Observers do not have a right to view an individual's proof of residence document displayed for purposes of voter registration.** However, subsequent to the voter's registration, the chief inspector may permit observers to view a voter's registration application and any proof of residence document the voter leaves with election officials if time permits and if doing so does not delay or disrupt the voting process. Observers may not view confidential aspects of the documents, including date of birth, driver's license or state ID number, social security numbers, account numbers and information regarding the voter's financial transactions or medical history, or the address of a confidential voter.
6. Observers shall comply with lawful commands of the chief inspector or shall be subject to removal from the polling place. Observers shall not engage in loud, boisterous or disruptive behavior, or interfere with voting or the conduct of the election. The chief inspector shall warn any offending observer, and if the conduct continues, law enforcement may be summoned to remove the observer. In that case the individual will not be permitted to act as an observer at the same or another polling place for the duration of the election.
7. Observer conversations shall be kept to a minimum. Observers shall not engage in electioneering and shall not use cell phones to make voice calls. Observers also may not use any video or still cameras inside the polling place while polls are open, but may do so after the polls close provided that such use is not disruptive or interferes with the administration of the election. Observers shall not handle an original version of any election document, including ballots, poll books, registration applications or proof of residence documents.
8. Observers who are qualified electors of the State may challenge for cause any person whom the challenger knows or suspects is not a qualified elector, subject to the provisions of Wis. Stat. §§6.92 – 6.95 and Chapter GAB 9, Wis. Adm. Code. Challenges are limited to the six categories noted in Section GAB 9.02 related to voter qualifications (except that the residency requirement is 28 days rather than 10 days). Challenges must be supported by specific evidence related to the individual voter. Any individual who abuses the right to challenge may be subject to a lawful order of an election inspector to cease making challenges and removal from the polling place if the individual refuses to obey such an order.

The G.A.B. encourages the responsible exercise of the right to observe the election process. If an observer believes an issue or irregularity has occurred, and is not satisfied with the response

of the chief inspector or the municipal clerk, your organization or the individual observer is welcome to contact our staff to determine whether it is appropriate for the G.A.B to intervene. However, behavior that is disruptive, including conversing with or intimidating voters, or causing undue delays in the registration or voting procedures,, will not be tolerated.

We appreciate your organization reminding your observers of the code of conduct which they are required to follow at upcoming elections. For questions regarding this correspondence, please contact the G.A.B. Help Desk at (608) 261-2028, or [gabhelpdesk@wi.gov](mailto:gabhelpdesk@wi.gov), or Staff Counsel Michael Haas, who may be reached at (608) 266-0136 or [michael.haas@wi.gov](mailto:michael.haas@wi.gov).

Best wishes and kind regards,

A handwritten signature in black ink, appearing to read "N. E. Robinson", written in a cursive style.

**NATHANIEL E. ROBINSON**  
Elections Division Administrator  
Government Accountability Board